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UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re:

KENNETH LUTHER NESMITH and LINDA
ANN NESMITH,

Debtors.

WELLS FARGO BANK, N.A.,

Movant,

vs.

KENNETH LUTHER NESMITH and LINDA
ANN NESMITH and S. WILLIAM MANERA,
Trustee,

Respondents.

Chapter 7

No: **2-10-bk-10640-CGC**

**STIPULATION REGARDING
PAYMENT OF INDEBTEDNESS AND
MODIFICATION OF STAY**

IT IS HEREBY STIPULATED AND AGREED by and between the Debtors/Respondents, Kenneth Luther Nesmith and Linda Ann Nesmith ("Debtors"), by and through their attorney Stanford E. Lerch, and the Movant, Wells Fargo Bank, N.A. ("Wells Fargo"), by and through its attorneys Jaburg & Wilk, P.C., by Janessa E. Koenig, pursuant to an agreement reached in the above-captioned Chapter 7 proceedings, presently pending in the United States Bankruptcy Court for the District of Arizona, as follows:

1. That the Debtors are presently indebted to Wells Fargo as a result of their execution of a SmartFit Home Equity Account Agreement ("the Note") and Deed of Trust in the principal amount of \$184,999.98, plus accrued and accruing interest, and that said

1 Note is secured by a perfected lien on the Debtors' real property legally described as
2 follows:

3 LOT 76, SAGUARO WEST IV A, ACCORDING TO BOOK 205
4 OF MPAS, PAGE 33, RECORDS OF MARICOPA COUNTY,
5 ARIZONA.

6 2. That the Debtors are currently in default under the Note and Deed of Trust,
7 and are past due for the payments due and owing for the period of January 24, 2010
8 through July 24, 2010, in the total amount of \$5,584.91;

9 3. That to cure the existing delinquency, and to reimburse Wells Fargo for the
10 attorneys' fees and costs incurred in connection with the stay lift motion, the Debtors shall
11 do the following:

12 A. Tender a payment to Wells Fargo in the amount of \$2,000.00 on
13 or before July 30, 2010; and

14 B. Tender monthly catch-up payments to Wells Fargo in the amount
15 of \$2,167.46 each, on or before August 15, 2010 and September
16 15, 2010, respectively.

17 4. That the Debtors shall resume making their regular monthly payments to
18 Wells Fargo commencing on August 24, 2010, as provided for under the terms of the Note
19 and Deed of Trust, and they shall remain current in their regular monthly payments
20 thereafter;

21 5. That in the event the Debtors fail to make any payment described in
22 Paragraphs 3 or 4 above, Wells Fargo may send a ten (10) calendar day written notice to
23 the Debtors and to their attorney relative to any delinquent payment, and accordingly, for
24 the purposes of this Stipulation, a payment will be deemed untimely if it is not made by
25 5:00 o'clock p.m. on the tenth calendar day following the date of mailing of written notice
26 of default by Wells Fargo to the Debtors and their counsel. The Debtors' right to Notice
27 of a Default is expressly limited to two (2) events of default. Upon the third event of
28 default, Wells Fargo may exercise its rights under the Note and Deed of Trust without
further notice to the Debtors;

6. That in the event notice of default is required to be sent, the Debtors agree to pay Wells Fargo an additional sum of \$150.00 for each Notice:

7. That in the event a payment is not timely made and not timely cured as previously set forth herein, this Stipulation and the Order approving same will be self-executing, and therefore, upon the failure of the Debtors to make a timely payment the automatic stay shall be deemed lifted without further order of the Court or further application by Wells Fargo; and

8. That the provisions of this Stipulation relative to the stay lift shall be effective in the event of conversion to any other chapter of the Bankruptcy Code, and/or any subsequent bankruptcy proceedings filed by or against the Debtors.

DATED this 28th day of July, 2010.

JABURG & WILK, P.C.

By: [Signature]
Janessa E. Koenig, Esq.
Attorneys for Wells Fargo Bank, N.A

LERCH & DEPRIMA, PLC

By: [Signature]
Stanford E. Lerch, Esq.
Attorneys for Debtors

ORIGINAL of the foregoing filed
Via ECF this 28th day of July, 2010

COPIES of the foregoing mailed
this 28th day of July, 2010 to:

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s/ Jeanette Chavez